

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on May 16, 2006, the Examiner rejected claims 12-15, 26-27, 35 and 37-41 under 35 U.S.C. § 103(a) as unpatentable over Jones et al. (Patent No. 6,172,328) or Skonecki (Patent No. 5,305,550) in view of Roulleau (Patent No. 5,142,976). Applicants respectfully traverse this rejection and submit that the claims are not rendered obvious by the cited art.

The claims recite limitations not taught or fairly suggested by the cited references, or their combination. In re Vaeck, 947 F.2d408 (Fed. Cir. 1991). In particular, the claims of the present invention describe a product comprising a group of flowers, each flower having a stem and one or petals wherein said one or more petals is free of attached or cut image; and a repeatable, identical pad-printed image provided on said petal that is free from an etched or cut image.

Jones discloses a method and system for etching, cutting and or altering surface flower utilized a laser energy source. Jones was concerned with maintaining the leaf's ability to photosynthesize, "unlike certain other materials which are rigid and have certain defined thicknesses allowing for a larger margin of error, flexibility of the leaf material and the delicateness of the leaf and flower petals also raise concerns in being able to adequately mark such products using a laser." Jones, col. 3, lns. 43-50. Jones indicated that the cross section of the leaf generally includes several layers from the top to the underside and that photosynthesis primarily took place top underside. Being concerned with maintaining the photosynthetic capacity of leaves after being marked, Jones indicated that "therefore damage to the undersurface should be avoided." Jones,

col. 4, lns. 13-14. Accordingly, Jones does teach a method that damages the surface of the leaf while maintaining the capacity of the leaf to photosynthesize. Jones' entire disclosure relates to identifying quantifiable requirements which allow the top layers of a leaf to be burned or etched by a laser without damaging the layers of the leaf which photosynthesize. Accordingly, methods conducted by Jones do damage at least the cuticle layer of the flower.

In contrast to Jones' image, the image in Applicants' claimed invention is transferred, provided, and placed onto the petal, and not, etched, cut or permanently penetrated at the site where the image exists. Though the leaf maintains its ability to photosynthesize after an image is applied by Jones' method, leaf or flower's cellular surface, at least the cuticle, is etched or burned, which is unlike the petal of the claimed invention that is "free from etched or cut" images. Hence, Jones neither teaches nor suggests the claim limitations of Applicants' currently amended invention.

Rouleau disclosed a machine for printing on uncooked poultry eggs. The disclosure of Rouleau is primarily concerned printing a decorative motif on a curved surface. Rouleau's concerns are evident in the discussion found in column 1 of the '976 patent, which indicates that previously used ink jet processes were unacceptable for producing good quality large decorative motifs because the images were not continuous and that the application of a motif over the curved surface of an egg, particularly the narrow end of an egg, was difficult not because the egg was fragile, but because the curved surface of the egg is "very difficult to make accessible on a conventional support." Rouleau, col. 1 lns. 52-57. Accordingly, the disclosure of Rouleau is

preoccupied, not with the delicate flexible nature of the egg shell, but with applying a quality repeatable image to a substantially curved surface.

No reasonable expectation of success would be anticipated when combining Jones with Roulleau. In re Vaeck, 947 F.2d 488, (Fed. Cir. 1991). Jones provides the critical insight that applying images to a flexible delicate leaf and flower material is different from the application of an image to materials which are rigid and have certain defined thicknesses allowing for a larger margin of error. Jones, col. 3, lns. 43-50. The shell of an egg is such a material. Roulleau teaches of poultry eggs, while Jones teaches specifically of etching, cutting or burning into the surface of a leaf. Jones, Abstract line 1; Col. 1, lines 12-15, Col. 3, lines 21-29; Col. 4, lines 21-25. Accordingly, one skilled in the art, namely Jones at the time, indicates that it is not obvious to utilize methods of applying images to rigid surfaces of defined thicknesses to applying an image to a delicate and flexible leaf. Accordingly, Applicant respectfully submits that there is no motivation or suggestion found in the art to combine the teachings of Jones with Roulleau.

Applicant's claimed invention is not obvious over Skonecki in view of Roulleau, because Skonecki teaches away from the claimed invention. In re Vaeck, 947 F.2d 488, (Fed. Cir. 1991). Specifically, Skonecki discloses a hand-held applicator used to create an individualized image on a flower. This hand-held applicator precludes the ability to mass produce that particular image. Skonecki, col. 1, lns. 27-35; col. 1, lns. 53-55; col. 1, lns. 62-64; col. 2, lns. 1-15; col. 2, lns. 41-44. In contrast, Applicants' independent claims 35 and 37 recite a "repeatable, identical, pad-printed, image provided on each of the flowers in the group of flowers." Thus, the independent claims are not made obvious by the cited references because Skonecki teaches away from the claims.

Rouleau does not teach pad printing on an image as broad as a “delicate organic product.” Rouleau specifically teaches printing on “uncooked poultry eggs.” (Col. 3, 17-33). And, Rouleau teaches of printing in a way different than disclosed in Applicants’ specification; on the egg by a machine comprising two angled facets. Applicants teach of printing on a petal that leaves a surface-only image on the petal.

Thus, for at least the foregoing reasons, Applicant respectfully submits that the references cited herein do not render obvious the independent claims. In addition, dependent claims place further limitations on otherwise allowable subject matter. Accordingly, Applicant respectfully submits that the cited references do not make obvious the newly amended claim set provided herein.

CONCLUSION

Applicant submits the amendments made herein do not add new matter and the claims are now in condition for allowance. Accordingly, Applicant requests favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, or if the Examiner would like to suggest amended claim language, the Examiner is invited to call the undersigned.

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Respectfully submitted,



Michael F. Krieger
Attorney for Applicant
Registration No. 35,232

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 321-4814
Facsimile: (801) 321-4893